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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,833	08/20/2007	Hayat Nicholas Haddad	DAVI286.001APC	8378

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EXAMINER

ARROYO, CESAR D

ART UNIT	PAPER NUMBER
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4117

NOTIFICATION DATE	DELIVERY MODE
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02/04/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
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Office Action Summary	Application No. 10/594,833	Applicant(s) HADDAD, HAYAT NICHOLAS	
	Examiner CESAR ARROYO	Art Unit 4117	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/28/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 20 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 September 2006 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/26/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Olazabal, U.S. 4,281,761.

In regards to claim 1, Olazabal, Figs. 6, discloses a case for cigarette packets comprising:

-a lid (84), a first portion being shaped to receive and seat therein a lid portion of the cigarette packet (see column 7, lines 48-54).

-a hollow receptacle (82), that is closed on one end, being shaped to receive and seat therein a body portion of the cigarette packet (see column 7, lines 55-57).

In regards to claim 2, Olazabal, Figs. 6, discloses a second portion of the lid is shaped for insertion into the receptacle to there by couple the lid to the receptacle (see column 7, lines 57-68).

In regards to claim 3, Olazabal, Figs. 6, discloses a said first portion of the lid (90) is coupled to the second portion of the lid (88) by a hinge (see column 7, lines 46-50).

In regards to claim 4, Olazabal, Figs. 6, discloses the first portion of the lid resiliently engages the lid of the cigarette packet when the lid of the cigarette packet is seated therein (see column 7, lines 47-54).

In regards to claim 5, Olazabal, discloses the lid being constructed of plastic, metallic, or any other suitable material including silicone rubber material (see column 4, lines 22-25).

In regards to claim 6, Olazabal, Figs. 6, discloses a cap (86) shaped to receive and secure the first portion of the lid.

In regards to claim 7, Olazabal, Figs. 6, discloses the case being constructed of plastic, metallic, or any other suitable material including silicone rubber material (see column 4, lines 22-25).

In regards to claim 16, Olazabal, Figs. 6, discloses a cover for a lid of a cigarette packet comprising:

- a lid (84), a first portion being shaped to receive and seat therein a lid portion of the cigarette packet (see column 7, lines 48-54), and a second portion (88) for coupling the cover to a body portion of the cigarette packet.

In regards to claim 17, Olazabal, Figs. 6, discloses a second portion of the lid is shaped for insertion into the receptacle to there by couple the lid to the receptacle (see column 7, lines 35-54).

In regards to claim 18, Olazabal, Figs. 6, discloses a said first portion of the lid (90) is coupled to the second portion of the lid (88) by a hinge (see column 7, lines 46-50).

Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Schade, U.S. 4,190,148.

In regards to claim 9, Schade, Figs. 1, discloses a case for cigarette packets comprising:

-a lid (18), being arrangable to extend over and cover an open end of a receptacle so as to secure a cigarette packet stored therein,

-a hollow receptacle (11), that is closed on one end, the receptacle being shaped to receive and seat therein a body portion of the cigarette packet.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Olazabal, U.S. 4,281,761 as applied to claim 1 above, and further in view of Bernhard, U.S. 2004/0251148.

Olazabal teaches the limitations of claim 1 above, but he does not teach the lid of the case including a flange that is adapted to secure the lid portion of the cigarette packet in a position seated within the lid of the case. Bernhard, Fig. 1, teaches a container for cigarettes in which the lid has a flange (20) for securing the lid of the cigarette packet. It would have been obvious to one having ordinary skill in the art, at

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the time of invention, to have provided the lid as taught by Olazabal, with the flange as taught by Bernhard, to provide a case, for cigarette packets with flip tops, that has a lid that when opened can not only open the case for access to the cigarette packet, but to open the cigarette packet as well and allow the user to pull a single or multiple, if sharing, cigarettes out.

Claims 10, 11, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schade, U.S. 4,190,148 as applied to claim 9 above, and further in view of Golde, U.S. 5,884,338.

Schade teaches the limitations of claim 9, above, but he does not teach there being a wallet coupled to a side of the case, the wallet being coupled by way of zipper, and the wallet having a plurality of pockets. Golde, Fig. 1, teaches a pocket system connected via zipper to whatever item it is connected to comprising a plurality of pockets that are shaped and capable of receiving money or cards. It would have been obvious to one having ordinary skill in the art, at the time of invention, to have provided the case as taught by Schade, with the pocket system attached as taught by Golde, as to provide a cigarette case that has multiple functionality to it and allowing the use to carry less items in jean/pant pockets.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schade, U.S. 4,190,148 as applied to claim 9 above.

Schade further discloses the case including a pocket (15) that is coupled to a side of the case, the pocket being suitable for storing a cigarette lighter.

Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schade, U.S. 4,190,148 as applied to claim 9 above.

Schade further discloses the case and lid being made of a suitable material such as molded hard plastic, metal, or other substances (see column 1, lines 40-46).

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Olazabal, U.S. 4,281,761 as applied to claim 16 above, and further in view of Bernhard, U.S. 2004/0251148.

Olazabal teaches the limitations of claim 16 above, but he does not teach the lid of the case including a flange that is adapted to secure the lid portion of the cigarette packet in a position seated within the lid of the case. Bernhard, Fig. 1, teaches a container for cigarettes in which the lid has a flange (20) for securing the lid of the cigarette packet. It would have been obvious to one having ordinary skill in the art, at the time of invention, to have provided the lid as taught by Olazabal, with the flange as taught by Bernhard, to provide a case, for cigarette packets with flip tops, that has a lid that when opened can not only open the case for access to the cigarette packet, but to open the cigarette packet as well and allow the user to pull a single or multiple, if sharing, cigarettes out.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CESAR ARROYO whose telephone number is (571)270-7817. The examiner can normally be reached on 0730-1700 Monday-Thursday, 0730-1600 Friday, Everyother Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naeem Haq can be reached on 571-272-6758. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. A./
Examiner, Art Unit 4117

/Naeem Haq/
Supervisory Patent Examiner, Art Unit 4117

January 30, 2009